IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Crl.Rev.Pet.No. 484 of 2000()

CRA.173/1998 of SESSIONS COURT, THRISSUR DT.15.5.2000.
ST.2900/1992 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA DT.22.7.98.

.....

REVN. PETITIONER: IST APPELLANT/ 1ST ACCUSED

ITTOOP, S/O. VALIYAVEETTIL ANTONY,
KATTOOR, MUKUNMDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SMT.MINI JOHN PAREMALIL

RESPONDENT/ RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.DILIP.S

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.484/2000

ORDER ON CRL.MP. NO.2743/2999 IN CRL.RP. 484/2000

DISMISSED

11.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

tss

K.R. UDAYABHANU, J.

CRL.R.P. NO. 484 of 2000

Dated this the 11th day of July, 2007

ORDER

The revision petitioner who is the Ist accused in S.T.2900/92 stands convicted for the offence under section 353 IPC and sentenced to undergo simple imprisonment for 3 months.

2. The prosecution case is that on 17-3-1992 at 11.30 a.m A1 and his brothers, A2 and A3 with the intention to obstruct CWs 1 to 6, the Agricultural Income Tax and Sales Tax Officials from discharging their duties as public servants in inspecting the shop of A1 at Kattoor bazar, assaulted CW-1. A2 and A3, were acquitted by the appellate court.

3. The prosecution evidence consisted of the testimony of PWs 1 to 9 and Exts P1 to P4. PWs 1 and 2, the officials of the Department, have testified with respect to the incident. PW-3 is the Head Constable who reached the spot immediately. PWs 6 and 7 did not support the prosecution.

4. The contention raised by the counsel for the revision petitioner is that no documentary evidence has been produced to establish the fact that PWs 1 and 2 are the officials of the particular department. The courts below have examined the above aspect. The version of PW-1 is that when they went to the shop of A1 for inspection, they told him that they are officials of the Agricultural Income Tax and Sales Tax Department and that they were having their Identity cards with them. Of course, the appellate court has found fault with the investigating agency for not producing the official documents in this regard. All the same, I find that there was no dispute, in fact, about the identity of the officials. The only contention is that the evidence produced by the investigating agency did not include the documents to prove the official status of PWs 1 and 2. Being a question of fact, I find that the aspects have been considered and covered by the decisions of the courts below. On a consideration of the evidence adduced ,

I find no reason to interfere in the findings of the courts below in exercise of the revisional jurisdiction. Conviction is confirmed.

5. Counsel for the revision petitioner has only sought for modification of the sentence pointing out that the incident has taken place in March 1992 and that so many years have elapsed since the commencement of the proceedings.

6. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.5000/- and in default to undergo simple imprisonment for 3 months. The revision petitioner shall appear before the JFCM,, Irinjalakuda on 14-8-2007 to receive the sentence.

The Crl.R.P is disposed of accordingly.

K.R.UDAYABHANU,JUDGE.

Kvm/

K.R.UDAYABHANU, J.

CRL.R.P.NO.484 OF 2000

ORDER

11-7-2007.